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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,141

11/03/2003

Vyshislav Ivanov

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EXAMINER

MCGRAW, TREVOR EDWIN

ART UNIT

PAPER NUMBER

3752

MAIL DATE

DELIVERY MODE

07/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/700,141

Applicant(s)

IVANOV ET AL.

Examiner

Trevor McGraw

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-32, 44-46 and 48-67 is/are pending in the application.
- 4a) Of the above claim(s) 30-32, 44-46 and 48-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 61-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/24/03, 08/27/04, 12/13/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

Applicant's election without traverse of Claims 61-67 in the reply filed on 04/19/2007 is acknowledged.

Claims 30-32, 44-46 and 48-60 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/19/2007.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 61-64, 66 and 67 are rejected under 35 U.S.C. 102(b) as being anticipated by Kochenour (US 4,090,668).

In regard to Claims 61-64, 66 and 67, Kochenour (4,090,668) teaches an apparatus for cleaning and deicing a vehicle window where the apparatus comprises a reservoir (30) that contains a washing fluid, a vessel (50 or 52) having an inlet (60) through which the washing fluid is received from the reservoir and an outlet (62) through which the fluid is discharged where at least one spray head (80) is in fluid

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communication with the outlet through which the fluid is sprayed onto at least one vehicle window (Column 4, lines 22-37) and at least one windshield wiper (12, 22) for wiping the window where the windshield wiper actuation system includes a motor (20; Column 3, lines 27-32) that actuates the windshield wiper (12, 22) and a controller (110; Column 4, line 67-Column 5, line 10) to control at least one of the spray heads (80) and the windshield wiper (12, 22) based on the torque of the motor (20; Column 3, lines 27-32; motor controls the wiper blade sweep motion). The apparatus of Kockenour also teaches where the windshield wiper (12, 22) is operative to wipe the window between two limits of travel where the traveling sweeping motion of wiper blades controlled by the motor for back and forth motion in both a clockwise and counterclockwise direction and the controller is operative to change the direction of at least one windshield wiper without reaching at least one of the two limits of travel by switching the speed at which the motor actuates the windshield wipers where the controller further is capable of synchronizing operation of at least one spray head (80) with the movement of at least one windshield wiper (12, 22; See Figure 2 where the spray heads are in the windshield wiper and cooperate with one another when the wiper is motioned in the sweeping clockwise and counterclockwise movements). The apparatus of Kockenour further teaches where the reservoir (30) has a heating element (104) that is disposed in the vessel (50 or 52) for heating the fluid in the vessel (50 or 52).

Claims 61-67 are rejected under 35 U.S.C. 102(b) as being anticipated by Franco et al. (US 6,164,564).

In regard to Claims 61-67, Franco et al. (6,164,564) teaches an apparatus for cleaning and deicing a vehicle window where the apparatus comprises a reservoir (30) that contains a washing fluid, a vessel (28) having an inlet (34) through which the washing fluid is received from the reservoir (30) and an outlet (36) through which the fluid is discharged where at least one spray head (360) is in fluid communication with the outlet (36) through which the fluid is sprayed onto at least one vehicle window (24) and at least one windshield wiper (402, 404) for wiping the window (24) where the windshield wiper actuation system includes a motor (406) that actuates the windshield wiper (402,404) and a controller (46 or 422) to control at least one of the spray heads (360) and the windshield wiper (402, 404) based on the torque of the motor (406; motor controls the wiper blade sweep motion). The apparatus of Franco et al. also teaches where the windshield wiper (402, 404) is operative to wipe the window between two limits of travel where the traveling sweeping motion of wiper blades controlled by the motor for back and forth motion in both a clockwise and counterclockwise direction (434, 436) and the controller is operative to change the direction of at least one windshield wiper without reaching at least one of the two limits of travel by switching the speed at which the motor actuates the windshield wipers where the controller further is capable of synchronizing operation of at least one spray head (360) with the movement of at least one windshield wiper (402, 404; See Figure 9 where the spray heads are in the windshield wiper and cooperate with one another when the wiper is motioned in the sweeping clockwise and counterclockwise movements). The apparatus of Franco et al. further teaches where the windshield wiper is placeable in a summer parking mode and

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a winter parking mode, when in the summer parking mode the wiper is at rest generally at one of the limits of travel, and when in the winter parking mode the wiper is between the limits of travel (Column 13, Line 61-column 14, Line 36). Franco et al. additionally teaches a reservoir (30) has a heating element (50,306) that is disposed in the vessel (28) for heating the fluid in the vessel (28).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kochenour (US 4,090,668) in view of Franco et al. (US 6,164,564).

In regard to Claim 65, Kochenour as taught and described above fails to teach where the windshield wiper is placeable in a summer parking mode and a winter parking mode, when in the summer parking mode the wiper is at rest generally at one of the limits of travel, and when in the winter parking mode the wiper is between the limits of travel. However, Franco et al. (US 6,164,564) as taught and described above further teaches where the windshield wiper is placeable in a summer parking mode and a winter parking mode, when in the summer parking mode the wiper is at rest generally at one of the limits of travel, and when in the winter parking mode the wiper is between the

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limits of travel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the present invention was made to provide the windshield wiper washing and deicing system of Kochenour with the summer and winter wiper parking modes of Franco et al. in order to provide for a manner in which the wiper blades can be selectively positioned higher within the two limits of travel to operate faster in the winter time to prevent ice build up and to create less strain on the motor.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 61-67 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,164,564.

Although the conflicting claims are not identical, they are not patentably distinct from

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each other for at least the following reasons the Claims of the present invention (61-67) disclose the limitations of Claims 1-13 of US 6,164,564 where the overlapping limitations include a windshield wiper deicing system that has a motor, nozzle spray head for spraying a fluid, a heating element, a vessel, a reservoir, summer and winter parking modes, two limits of travel, a controller to change the direction of at least one windshield wiper without reaching at least one of the two limits of travel and controlled synchronization operation of the spray heads and windshield wipers. Granting of any of these limitations in combination or subcombination would permit an improper extension of the patent term granted on the US 6,164,564 patent.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee (US 5,857,624), Raghu (US 5,820,026), Walker (US 6,113,006), Lansinger (US 5,957,384).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Trevor McGraw whose telephone number is (571) 272-7375. The examiner can normally be reached on Monday-Friday (2nd & 4th Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



06/23/2006

Trevor McGraw  
Art Unit 3752

TEM



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